

REMARKS/ARGUMENTS

Applicants respectfully request reconsideration of this application in view of the foregoing amendments to the claims and the following comments.

The Office Action mailed September 28, 2004, set forth the following claim rejections:

- In paragraph 2, claims 1, 2, and 12 were rejected under the doctrine of obviousness-type double patenting, as allegedly unpatentable over claims 1, 2, and 8 of U.S. Patent No. 6,413,641 to Yamasaki et al. (the "Yamasaki patent") and claims 1 and 3 of U.S. Patent No. 6,585,373 to Evans et al. (the "Evans patent").
- In paragraph 4, claims 1, 3-5, 11-12, 32-39, and 41 were rejected under 35 U.S.C. § 102(e), as allegedly anticipated by U.S. Patent No. 6,096,425 to Smith (the "Smith patent").
- In paragraph 6, claims 2, 40, and 42 were rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over the Smith patent in view of U.S. Patent No. 6,113,811 to Kausch et al. (the "Kausch patent").
- In paragraph 7, claims 6-10 were rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over the Smith patent in view of U.S. Patent No. 6,127,505 to Slagel (the "Slagel patent").

Applicants respectfully traverse these rejections.

In response, Applicants have amended independent claims 1, 39, and 42, to more particularly define the optical-quality polarized part of the invention and thereby distinguish more clearly over the cited patents. Applicants also have amended dependent claims 7 and 32 to define the invention with greater specificity, and they have amended dependent claims 7 and 34 to change their dependencies. No new matter has been introduced by these amendments.

These amendments, and the distinctions of the claimed invention from the cited patents, are discussed below.

The Obviousness-Type Double Patenting Rejection

As mentioned above, claims 1, 2, and 12 were rejected under the doctrine of obviousness-type double patenting, as allegedly unpatentable over claims 1, 2, and 8 of the Yamasaki patent and claims 1 and 3 of the Evans patent.

In response to this rejection, Applicants submit the accompanying two Terminal Disclaimers, disclaiming the terminal part of any patent issuing from this application that otherwise would extend beyond the expiration dates of the Yamasaki patent and the Evans patent. In view of these two Terminal Disclaimers, the obviousness-type double patenting rejection of claims 1, 2, and 12 should now be withdrawn.

The Rejection of Claims Under 35 U.S.C. § 102(e) Based on the Smith Patent

As mentioned above, claims 1, 3-5, 11-12, 32-39, and 41 were rejected under 35 U.S.C. § 102(e), as allegedly anticipated by the Smith patent.

In support of this rejection, the Examiner asserted as follows:

"...Smith discloses an optical-quality polarized part (fig. 1) comprising an optical construct (1, 2, 4 and 5) having a bonding surface (fig. 1), including a front bonding surface (at 2, next to 3) and an opposing rear surface (at 4, next to 3) and comprising a high impact polyurethane-based optical material (2 and 4, column 3, lines 22-23 and 34-36); a polarizer (3) . . . having a first side (next to 2) and an opposing side (next to 4) where in the first side and second side of the polarizer are integrally bonded to the optical construct across the entire bonding surface thereof, in a prescribed place thereon (fig. 1) . . ."

Office Action dated September 28, 2004, page 3.

Applicants disagree with the Examiner's brief characterization of the Smith patent's disclosure. Smith's polarized laminate includes five distinct layers: a polarizer (3), two polyurethane adhesive film layers (2, 4) laminated to opposite sides of the polarizer (3), and two plastic layers (1, 5) laminated to the outer surfaces of the adhesive film layers (2, 4). The

polyurethane adhesive film layers (2, 4), which have preferred thicknesses of merely about 0.1 mm, function as an *adhesive* between the adjacent polarizer (3) and plastic layer (1 or 5) and provide impact resistance by absorbing and dissipating the energy of a direct blow to the outer plastic layers (1 or 5). *See*, Smith patent, col. 3, lines 5-6 and lines 22-38.

The Examiner has taken the position that each polyurethane adhesive film layer (2 or 4) and its associated plastic layer (1 or 5) constitutes the "optical construct" defined in Applicants' claimed invention. In taking this position, the Examiner has construed the claim terms "solid" and "unitary" as insufficient to define the optical construct as including a single layer of high impact polyurethane-based optical material having sufficient structural integrity to maintain optical power, as Applicants had intended.

By this Amendment, Applicants have amended independent claim 1 such that it now defines an optical construct comprising "a first layer comprised of a high impact polyurethane-based optical material," with such first layer further being defined to have "sufficient structural integrity to maintain optical power." This first layer also is defined to be integrally bonded to the polarizer. Similarly, Applicants have amended independent claim 39 such that it now defines an optical construct comprising "a first layer and a second layer, each such layer comprising a high impact polyurethane-based optical material," with the first layer further being defined to have "sufficient structural integrity to maintain optical power." The first and second layers both are further defined to be integrally bonded to the polarizer.

These features are present in the optical-quality polarized parts made according to the methods set forth in the exemplary flowcharts of FIGS. 3-6 and described in detail in paragraphs 0039-0043 and 0047-0074 of Applicants' original specification. The identified features of independent claims 1 and 39 are *lacking* in the polyurethane adhesive layers (2, 4) of the Smith laminate. At a thickness of merely 0.1 mm, these adhesive film layers have *insufficient* structural integrity to maintain optical power; they require the support provided by the adjacent plastic layers (1, 5).

For these reasons, the § 102(e) rejection of independent claim 1 and its dependent claims 3-5, 11-12, and 32-38, and independent claim 39 and its dependent claim 41, as allegedly anticipated by the Smith patent, is improper and should be withdrawn.

The Rejection of Claims 2, 40, and 42 Under 35 U.S.C. § 103(a)**Based on the Smith and Kausch Patents**

As mentioned above, claims 2, 40, and 42 were rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over the Smith patent in view of the Kausch patent.

Claims 2 and 40 depend from amended independent claims 1 and 39, respectively, and thus incorporate the features calling for the optical construct to comprise a first layer comprised of "a high impact polyurethane-based optical material," with such first layer [to which the polarizer is integrally bonded] further being defined to have "sufficient structural integrity to maintain optical power." Claim 42 is an independent claim defining an optical-quality polarized part, and it has been amended to call for these same features. Claim 42 also has been amended to recite features set forth in dependent claim 7. No new matter has been introduced by these amendments.

As discussed above, the Smith patent fails to show or suggest an optical-quality polarized part incorporating such an optical construct. Moreover, the Kausch patent fails to make up for this deficiency. The Kausch patent does, in fact, disclose a polarizer comprising polyethylene terephthalate (PET), as asserted by the Examiner. However, the Kausch patent fails to suggest integrally bonding such a polarizer with an optical construct of the kind defined in the parent claim to dependent claims 2 and 40 and in independent claim 42.

For these reasons, and for the reasons set forth above with respect to independent claims 1 and 39, the § 103(a) rejection of claims 2, 40 and 42 should be withdrawn.

The Rejection of Claims 6-10 Under 35 U.S.C. § 103(a)**Based on the Smith and Slagel Patents**

As mentioned above, claims 6-10 were rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over the Smith patent in view of the Slagel patent.

Claims 6-10 depend from amended independent claim 1, and thus incorporate the features calling for the optical construct to comprise "a first layer comprised of a high impact

polyurethane-based optical material,” with such first layer [to which the polarizer is integrally bonded] having “sufficient structural integrity to maintain optical power.”

As discussed above, the Smith patent fails to show or suggest an optical-quality polarized part incorporating such an optical construct. Moreover, the Slagel patent fails to make up for this deficiency. The Slagel patent does, in fact, disclose a high impact polyurethane-based optical material, as asserted by the Examiner. However, the Slagel patent fails to suggest substituting such material for the polyurethane adhesive layers of the Smith laminate. In fact, the independent claims 1 and 23 of the Slagel patent defined the polyurethane material to be “non-elastomeric,” which directly teaches away from the function of the polyurethane layers in the Smith patent, i.e., to be “absorbing and dissipating the energy of a direct blow to the [outermost] first or fifth layers.” *See*, Smith patent, column 3, lines 36-38.

For these reasons, and for the reasons set forth above with respect to independent claim 1, the § 103(a) rejection of claims 6-10 should be withdrawn.

Conclusion

This application should now be in condition for allowance. Issuance of a Notice of Allowance is respectfully requested. If the Examiner believes that a telephone conference with Applicants' undersigned attorney of record might expedite the prosecution of this application, she is invited to call at the telephone number indicated below.

Date: December 23, 2004

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: _____


James R. Brueggemann
Registration No. 28,286

333 South Hope Street, 48th Floor
Los Angeles, California 90071
Telephone: (213) 620-1780 x4156
Facsimile: (213) 443-2783